

# **North Smithfield Zoning Board of Review**

## **Meeting Minutes of January 16, 2007**

**The North Smithfield Zoning Board of Review met on Tuesday, January 16, 2007, at 7:00 PM at Primrose Fire Station, 1470 Providence Pike, North Smithfield, Rhode Island.**

**Call to Order: The Chair called the meeting to order at 7:00 pm.**

**I. Call of the Roll: Chair Stephen Kearns called the roll of the members. Present: William Juhr, Stephen Kearns, Vincent Marcantonio, Guy Denizard, Steven Scarpelli, Dean Naylor, and Mario DiNunzio. Also present were the Assistant Solicitor, Robert Rossi, Esq.; Robert Benoit, Building and Zoning Official; and a court stenographer from Allied Court Reporters.**

**The Chair reviewed procedures of the board for all present.**

**II. Application of Rita A. Turcotte, requesting a dimensional variance from section 5.5, subsection 5.51. Locus is Rue de St. Jude, Plat 17, Lot 184.**

**Rita Turcotte was sworn in by the court stenographer.**

**Mr. Rossi informed the Board that there is a discrepancy between the North Smithfield Zoning Ordinance and Rhode Island General Law**

with regard to granting a dimensional variance. RI General Law 45-24-41 d2 states “in granting a dimensional variance, that the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted is not grounds for relief.” The N. Smithfield Zoning Ordinance, section 9.3.2 b, states “In granting a dimensional variance, that the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience, which shall mean that there is no other reasonable alternative to enjoy a legally permitted beneficial use of one’s property. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted is not grounds for relief.” Because the italicized phrase is not included in Rhode Island General Law, Mr. Rossi advised the Board that they should not use this standard when granting a dimensional variance; they must follow the Rhode Island law.

Ms. Turcotte addressed the Board, requesting a dimensional variance for her property, located at Rue de St. Jude, Assessor’s Plat 17, Lot 184. The lot is a recorded administrative subdivision. At this time, Ms. Turcotte needs a dimensional variance for square footage in a RS-40 zone, in order to make the lot a buildable lot. The Chair labeled as exhibit P1 a survey of the administrative subdivision.

**Mr. Marcantonio told Ms. Turcotte that he would like to have an engineer document where on the property the well and leaching field will be, as well as where the well and leaching field of the adjacent property (Lot 183) is located, in order to assure that DEM requirements are met. DEM requires that the well and leaching field be located 100 feet apart, with a 10-foot buffer. Ms. Turcotte stated that she will obtain this documentation. The Chair asked if the property line would be able to be moved, depending on the location of the well and leach field. Ms. Turcotte stated that she believes this could be done if necessary.**

**In order to give Ms. Turcotte time to obtain this information from an engineer, The Chair made a motion to continue the application to February 6, 2007. Mr. Juhr seconded the motion, with all in favor.**

**III. Application of Michael Prudhomme, requesting to open and operate an automotive light repair garage, which will require a special use permit, per section 5.4.7, subsection 7-A. Locus is 473 St. Paul Street, Plat 2, Lot 64.**

**Attorney Lloyd Gariepy was present for the applicant. Mr. Gariepy was sworn in by the court stenographer. Mr. Gariepy addressed the Board, stating that his client, CPR Auto Inc., owned by Jeffrey Caron, Gregory Paul, and Raymond Roberts, is seeking a special use permit in order to open an automotive repair shop on the property owned by Michael Prudhomme, located at 473 St. Paul Street, Assessor's Plat 2,**

**Lot 64. Although Mr. Prudhomme owns the property, he will have no ownership interest in the business, nor will he be working there. Mr. Gariepy stated that he would demonstrate that the requested use will be neighborhood-friendly and consistent with the goals of the town's comprehensive plan.**

**Jeffrey Caron was sworn in by the court stenographer. Through questioning by Mr. Gariepy, Mr. Caron testified to the following: He, with his partners, Mr. Paul and Mr. Raymond, is looking to establish an automotive repair business. All three partners are experienced auto mechanics, with experience ranging from 4-15 years, and they are all certified state inspectors. Mr. Caron, Mr. Paul, and Mr. Raymond previously worked together at Rizzo Ford, which was bought out by Tasca. After Rizzo Ford was bought, the business moved. Rather than move to the new location, the applicants decided to open their own business. There is a need for experienced Ford mechanics in the area. They have previously worked with the North Smithfield and Woonsocket police departments, the Department of Transportation, the Department of Corrections, and Lynch Construction. They wish to enter into a lease agreement with Mr. Prudhomme because the building has a good ceiling height and appropriate square footage for their proposed business. The location is also desirable in that it provides good access to the highway system.**

**Mr. Caron also testified that there will be no changes to the outside of**

the building or the site plan of the property, including ingress and egress. The business will provide automotive repair, including light-duty trucks (i.e. landscaping trucks), but no service for large trucks. There will be no spray painting or bodywork provided. CPR Auto, Inc. has spent \$92,000 in purchasing and leasing various equipment for the proposed business. The auto repair that will take place will not create a great deal of noise, but during the summer the doors will most likely remain open during business hours. There will be no noxious odors produced by any of the repair work provided. The hours of operation for the business will be Monday through Saturday, 7:30 am to 6:00 pm. The dumpsters are located at the rear of the building, not on the river side of the property and are not visible from the street. The dumpsters will be emptied on a will call basis, during working hours. The Rhode Island DEM has issued an EPA ID number for the shipments of hazardous wastes (i.e. waste oil) from the business. There will be no outside storage of junk vehicles; the only vehicles onsite will be those waiting for repair. No auto sales will be provided. No repairs will take place outside. No additional signage will be added to the site. At present, there is a sign frame located on the roadside. It holds a "For Lease" sign. The business sign will replace this existing sign. The sign will not be illuminated.

The following exhibits were submitted to the Board:

P1 Drawing showing existing building and addition (note: drawing states "proposed" addition, but the addition has already been built)

P2 Photograph of the addition (not part of the applicant's proposed

**business)**

**P3 Letter from Rhode Island Department of Environmental Management with applicant's state issued EPA ID number**

**P4 Photograph showing the view to the abutting property**

**P5 200' Radius Map**

**The Board proceeded with their questions for the applicant. In response to questions from The Chair, Mr. Caron testified that there will be no retrofitting of the building and no fuel stored on site. The only fuel onsite will be that used for heating.**

**In response to Mr. Marcantonio's questions, the applicant stated that they are aware of the drainage ditch that runs alongside the property. Mr. Denizard asked if the proposed business will call for any specific fire department requirements. Mr. Gariepy stated that the space is up to code as far as he knows. The building does not have a sprinkler system. Mr. Benoit stated that before the building is occupied the fire department completes an inspection and explains requirements. Mr. Juhr expressed his concerns about the building's proximity to the Branch River. In response to Mr. Juhr's questions, the applicant testified that all repairs will be completed inside the building, the parking lot is paved, DEM-approved spill pads will be used in the case of an indoor spill, and no holes will be made in the concrete (lifts will be bolted to the floor). In addition to employee parking, approximately 7-10 cars will be parked outside of the building, but no junk cars will be stored on the property.**

**Michael Prudhomme, owner of the property, was sworn in by the court stenographer. He stated that he is not aware of any DEM requirements associated with this application. The Board stated they have concerns with the drainage ditch located so close to the property and how it can be protected. They would like to have a letter from the DEM stating that they are aware of the proposed use of the property and its proximity to the drainage ditch and the Branch River.**

**In response to fire safety concerns, Mr. Gariepy stated that the applicant would agree to a stipulation that the fire department inspects the property prior to occupancy.**

**Mr. Naylor asked what precautions could be taken to assure that oil will not be leaking in the parking lot. Mr. Caron stated that they would use undercar pans for cars awaiting repair in the parking lot.**

**The Chair read a memorandum from the Town Planner (exhibit T1), which suggested opaque fencing be added along the southern property line, in order to screen the adjacent residence. Mr. Prudhomme stated that he would rather add screening in the form of evergreen landscaping (bushes, trees).**

**Mr. Juhr, referring to exhibit P5, asked if the drawing could be revised to show the addition and the drainage ditch, and if the revised drawing could be submitted to DEM for review. Mr. Gariepy stated that P5 was submitted only as a 200' radius map for the purpose of**

showing abutters to the property. The applicant is willing to send a letter to DEM that reflects the fact that the Zoning Board has concerns and has requested that they look at the site, the slope, drainage ditch, and proximity to the river. At that time, DEM may require a Class 1 survey completed by an engineer, but the Zoning Board requiring a Class 1 survey would be holding the applicant to a higher standard than it does other applicants. Mr. Gariepy stated that he would copy the Board, through Mr. Benoit, on all correspondence with DEM. Mr. Denizard asked if the DEM had been notified about this hearing, since they are listed as an abutter. The DEM had received a certified letter and did not appear at the hearing.

The hearing was open to public comment. Paul Lemay, abutter to the property, was sworn in by the stenographer to speak against the application. Mr. Lemay stated he has concerns about the noise he believes will be created by the business. He stated that the equipment they will use will be too loud. He also wants his view of the building blocked. He stated that the area is a residential area and is not a good place for an auto repair shop. He stated that with 300 feet of frontage, it will look like a car lot. He is concerned that the hours of operation will be while he is home, which will interfere with his ability to enjoy his own property. He stated that he is concerned that the business will operate longer than the stated hours of operation, and is also concerned that cars will be dropped off at the property during the night, outside of working hours. He would like to be assured that no additional lighting will be installed on the property

and that he would like the number of cars in the parking lot to be limited. He is also concerned about the mess that would be made as a result of steam cleaning engines of the cars to be repaired.

Leo Lamoureux, an abutter to the property, was sworn in by the court stenographer to speak against the application. He stated his concerns about changing the parking plan and asked if additional driveways were planned. He also stated that another addition is planned for the property and asked if any further additions to the building were planned. Mr. Lamoureux also stated his concern about disposal of oil pans and fuel pumps in dumpsters.

The Chair made a motion for a 5-minute recess at 8:40 p.m. Mr. Scarpelli seconded the motion, with all in favor. The meeting was called back to order at 8:46 p.m.

The Chair made a motion to continue the application until February 6, 2007. Mr. Jühr seconded the motion. The Chair stated that he would like to amend the motion to continue the application until the requested information is received from the DEM and fire department. Mr. Rossi stated that a continuance requires a specific date.

Mr. Gariepy stated that the applicant will work quickly to obtain the requested information. He also requested that the Board grant the special use permit with stipulations, rather than to continue the application. If the stipulations are not met, the permit will not be

granted, but by continuing the application, it is tying the applicant to this location and causes delays in them looking for another site, if necessary. The Chair stated that he appreciated that concern, however, he would like the Board to make deliberate decisions based on all the facts. He stated that because this particular use is concerning several neighbors, he does not have all the facts in place at the present time. Mr. Jühr asked if the Board could make a stipulation that the special use permit is granted for a space of only 4000 square feet. Mr. Gariepy stated that the applicant would be amenable to that stipulation.

In reference to concerns expressed by Mr. Lemay and Mr. Lamoureux, Mr. Jühr asked if any business will be conducted after hours. The applicant stated that no business would be conducted outside of stated hours of operation. The applicant also stated that there will be no additional lighting installed on the property and no plans to have cars dropped off at the business outside of working hours. Mr. Gariepy stated that it is highly unlikely that there will be emergency drop off of vehicles in the middle of the night. That would be more likely in cases of auto body repairs as a result of accidents. There will be no auto body repairs provided by this business.

In the motion by The Chair, seconded by Mr. Jühr, to continue the application to February 6, a roll call vote was as follows: AYE: Mr. Kearns, Mr. Marcantonio, Mr. Denizard, Mr. Jühr, Mr. Scarpelli.

**Mr. Gariepy clarified with the Board that the additional information/action they are requesting is as follows: notification to the DEM; site inspection for use of auto repair, with regard to how to protect drainage brook from accidents resulting from use of building; inspection by the fire marshal; picture of the left side of the exterior of the building and the parking lot; and a suggestion on the number of cars that will be allowed on the lot. The Chair added that he would like assurance that the dumpster use will be restricted, with no disposal of any fluids. Mr. Caron stated that this is already stipulated by the dumpster company.**

**The Chair stated that the meeting will be kept open, and Mr. Rossi added that no repetitive testimony will be allowed.**

#### **IV. Zoning Board Issues and Concerns**

**Mr. Marcantonio asked Mr. Rossi about instances when state rules and regulations vary from those in the town zoning ordinance, and which rules should the Board follow. Mr. Rossi stated that town land use and zoning ordinances must comply with Rhode Island general laws. As long as the town ordinance complies with state law, the Board should follow that, but the town cannot hold applicants to higher standards than those in state law.**

**Mr. Juhr made a motion to adjourn at 9:20 p.m., seconded by Mr. Marcantonio, with all in favor.**